

REMARKS

Claims 1-48 and 50-54 are pending. The Examiner indicates that claims 1-48 are pending. Based on the Requirement for Restriction dated June 4, 2008, however, it is believed that claims 1-48 and 50-54 are pending and Applicant respectfully requests clarification in this regard. Along the same lines, the Examiner states that claims 12-28 and 34-45 are withdrawn from consideration, but it appears that claims 12-28, 34-45, and 50-54 should have been withdrawn from consideration. Based on this understanding, claims 12-28, 34-45, and 50-54 are understood to be withdrawn from consideration and are canceled herein without prejudice. Claim 3 is also canceled herein without prejudice. Claims 1 and 29 are amended herein to clarify the claimed subject matter. Accordingly, instant claims 1-2, 4-11, 29-33, and 46-48 are under consideration.

Any amendment, however, is not to be construed as abandonment of any subject matter of the originally filed application. Accordingly, it is to be understood that Applicant reserves the right to reintroduce subject matter deleted from the application by the foregoing amendments and to file one or more divisional, continuation, and/or continuation in part applications directed to such subject matter.

Support for amendments to the claims is found throughout the specification and in the original claims. Support for amendment to claim 1 is found, for example, in original claims 1 and 3. Support for amendment to claim 29 is found, for example, in original claim 29. No issue of new matter is introduced by these amendments.

Rejections under 35 USC § 112

Claims 3 and 4 have been rejected under 35 U.S.C. § 112, second paragraph, for alleged indefiniteness. More specifically, the examiner maintains that there is no limitation for Z being selected from $-C(R')_2-N_3$ or azidomethyl. Claim 1 is amended herein to encompass these limitations. Claim 3 is canceled herein, thereby obviating any rejection of this claim. In view of the amendments to the claims, therefore, the rejection of claims 3 and 4 for alleged indefiniteness is traversed.

In light of the clarifying amendments to the claims, reconsideration and withdrawal of the rejection of the instant claims under 35 U.S.C. § 112, second paragraph, is deferentially requested.

Rejection Under 35 U.S.C. § 102

Claims 1 and 2 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by Zavgorodny et al. (Tetrahedron Letters 32:7593-7596, 1991). Claim 1 is amended herein to clarify the subject matter of the claim. In view of the clarifying amendments to the claims and Applicant's arguments presented herein, the rejection as it applied to claims 1 and 2 is respectfully traversed.

Claim 1 is amended to be directed to a modified nucleotide having the recited features and to incorporate elements of original claim 3. Zavgorodny et al. do not teach or suggest a compound of instant claim 1. In light of this distinction, Applicant asserts that Zavgorodny et al. fail to anticipate the claimed nucleotide.

In view of the amendments to the claims and Applicant's arguments, the Examiner is respectfully requested to reconsider the validity of the rejection of claims 1 and 2 under 35 U.S.C. §102 and withdraw the rejection.

Fees

No additional fees are believed to be necessitated by this amendment. However, should this be an error, authorization is hereby given to charge Deposit Account No. 11-1153 for any underpayment or to credit any overpayment.

Conclusion

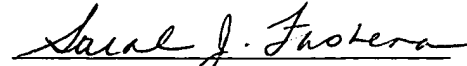
It is submitted, therefore, that the claims are in condition for allowance. No new matter has been introduced. Allowance of all claims at an early date is solicited. In the event that there are any questions concerning this amendment, or application in general, the Examiner is respectfully urged to telephone the undersigned so that prosecution of this

10/525,401

Attorney Docket No.: 2713-1-025

application may be expedited.

Respectfully submitted,

A handwritten signature in cursive script, reading "Sarah J. Fashera", written in black ink.

Sarah J. Fashera, Ph.D.

Agent for Applicant(s)

Registration No. 57,600

KLAUBER & JACKSON LLC
411 Hackensack Avenue
Hackensack, New Jersey 07601
(201) 487-5800

Date: December 1, 2008